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11/1/89

HAROLD G. BAKER, JR.
ATTORNEY AT LAW

November 1, 1989

The Honorable Paul Sauget, Mayor
Village of Sauget
2897 Falling Springs Road
Sauget, Illinois 62206

Dear Paul:

You have asked me to determine what contractual rights, if any, the Village has to the 36" sewer line crossing from Cerro's side of the Alton & Southern Railroad, under the railroad and then terminating at a manhole on Monsanto's property.

Enclosed is my first draft of the report which isn't intended to be complete due to missing drawings. I've asked Max therefor.
provided to Jay on 11/6/89

I am sending copies of this initial draft to Max and to P.H. for their comments.

Cordially yours.

Harold G. Baker, Jr. / gmt
HAROLD G. BAKER, JR.

cc: ✓ Max McCombs
P.H. Weis
HGBjr/gmt

CER 095536

Village looking for a way to help Cerro solve their Dead Creek problem. Don't want to combine wastes so that discrete samples are not possible. Are we connected to 36/30? Do we need for hydraulic overload? Condition of these sewers -- do we know if they can even be used?

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CONFIDENTIAL 92-CV-294-WDS

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000600

November 1, 1989

The Honorable Paul Sauget, Mayor
Village of Sauget
2897 Falling Springs Road
Sauget, Illinois 62206

Dear Paul:

Some of the wastewater from dischargers in the Village is collected in two (2) separate manholes (Manholes A) on Cerro's property just south of the Alton & Southern RR (A&S RR) mainline near Dead Creek west of new Falling Springs Road (formerly Monsanto Avenue and before that Lower Cahokia Road); is then transmitted northerly under the railroad in a 36 inch pipe and an 18 inch pipe to manholes on Monsanto's property (Manholes B); and is then transmitted westwardly by 36/30 inch and 24 inch pipes to another manhole on Monsanto's property just east of Mississippi Avenue (Manhole C). (By the way, are we certain that one of the pipes under the A&S RR is an 18 incher? Some of the documents subsequently discussed talk of a 24".)

WHO
WHERE
OWNERS
BEGIN
END?

At one time, some of Monsanto's wastewater was discharged into Manholes B and then transmitted to Manhole C in the 36/30 and/or 24 inch pipes. Within the last 10 years, Monsanto has built a parallel 42 inch line which collects some of its wastewaters and transmits them to Manhole C. We are advised and need to confirm that Monsanto no longer empties into Manholes B and no longer uses, by cross

*
please
respond

CER 095537

CONFIDENTIAL 92-CV-204-WDS

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connection or otherwise, either the 36/30 or the 24 inch lines (except by back flow from Manhole C).

You have inquired about the contractual rights of the Village to use the 36 inch line under the railroad, the manhole into which it discharges (Manhole B) and the 36/30 and 24 inch pipes. (While the 18 inch pipe under the railroad is extremely important, it is not the subject of your inquiry or of this reply.)

Monsanto Drawing D-11632. Monsanto has furnished me an incomplete copy of this drawing.

It shows, among other things, two (2) separate easements. Each runs from a point (Manholes B) in or near Dead Creek on Monsanto's premises, thence westerly towards Mississippi Avenue (Route 3). One is 15 feet wide and the other 12 feet wide.

The easements form a Y with the stem pointing toward Mississippi Avenue. They start out separately several feet apart, but some unstated distance to the west join and then continue to run westwardly immediately adjacent to each other (a combined width of 27').

The manholes (Manholes B) at each top of the Y are joined together.

A note on the drawing states that the 15 foot wide easement was created by the document dated June 17, 1941.

CER 095538

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000601

A further note states that the 12 foot wide easement was created by the document dated November 16, 1948.

Before 1924. The A&S RR crossed Dead Creek on a trestle at a point approximately 350 feet southwesterly of Lower Cahokia Road (now Falling Springs Road).

August 20, 1924. Agreement between A&S RR and Monsanto. A&S RR desires to replace that trestle with an embankment and to construct a new 36 inch pipe under its right-of-way. Monsanto discharges wastewater into Dead Creek through a second 36 inch pipe "a short distance" from the trestle and desires to connect its said existing pipe with the A&S RR's new pipe. Drawing B-548-RA-1 attached to original but not my copy.

1932. 24" trunk line constructed by the Village. No agreement found to date.

April 27, 1932. The Village vacated old Falling Springs Road as it traversed Monsanto's premises (Ordinance No. 53). Old Falling Springs comes into play in the legal description(s) used in the June 17, 1941 easement.

CER 095539

April 7, 1939. Agreement between Monsanto and Village. Village desires to construct an "overflow" to allow the "discharge of surplus surface waters into Dead Creek through" the existing 36 inch cast iron pipe under the A&S RR "through which the waters of Dead Creek flow". (Apparently and unless water in Dead Creek flowed from south

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to north, Monsanto had not yet filled in Dead Creek as it traversed its premises.) Such construction requires the installation of a manhole and 36 inch sewer line on Monsanto's premises. Monsanto grants the Village a 10 foot wide strip running southerly 40 feet from the existing 24 inch line to the A&S RR. (Although a new manhole is discussed in the preambles ("Whereas" clauses), it is not mentioned in the actual text of the agreement.)

Date

May 23, 1989. Agreement among the A&S RR, Monsanto and Village. Monsanto is relieved of all its duties under the 8/20/24 agreement and the Village assumes them. Village is given the right to extend the 36 inch line northward across the A&S RR for the "purpose of connecting the pipe line with sewer system of Village". Drawing B-1426-RA-2 (?) is attached.

That drawing shows another sewer line running NW from intersection of Little and Falling Springs (SA Route #10); turning north and crossing under A&S RR; and going to a manhole on the "existing 24" dia. sewer pipe line" of the Village; and running thence westwardly toward Mississippi Avenue.

CER 095540

The drawing also shows the proposed 36" extension from a manhole on 24" line southerly (and parallel to the 24" crossing of the A&S) to the A&S' existing 36" cast iron pipe. This 36" line ends "in mid air" in the north end of Cerro's part of Dead Creek.

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June 17, 1941; December 7, 1945; and November 16, 1948. All are easements granted to the Village by Monsanto.

All three have explanatory drawings attached to the originals but not to my copies. Without those drawings, it is impossible to state their purposes.

June 17, 1941. The document states: "This instrument is a confirmation of authorization previously given" to the Village. Presumably, it retroactively provides a right-of-way for the 24" line constructed in 1932.

CER 095541

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